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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,805	11/20/2001	Peter Geistlich	1194-199	8892
6449	7590	03/18/2004	EXAMINER	
ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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29/488809

EXAMINER

ART UNIT	PAPER NUMBER
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2/23/04

DATE MAILED:

This is a communication from the examiner in charge of your application.
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OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 11/17/03

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ _____ on's Patent Drawing Review, PTO-948

_____ atent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1617

Applicant's election without traverse of chondroitin sulphate in Paper No. 11/17/03 is acknowledged.

The disclosure is objected to because of the following informalities: The first sentence of page 1 should be amended to recite the patent numbers of the now patented applications.

Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 93/11723.

The examiner adopts the statement regarding lack of novelty of EPA examiner B Engle in the preliminary examination report of 22 May 1997 for the priority document PCT/GB96/00399 in part: The document D1: WO-A-93/11723 cited in the first Search Report describes prosthetic articular cartilage including a matrix, cf. Page 14 line 31, which is made of fibres consisting preferably of type I and type II collagen, cf. page 15, line 10 and page 15, line 6. According to page 7, lines 15-29, glycosaminoglycans, such as chondroitin sulphate, hyaluronic acid etc. can also be present in the matrix. The examiner adds that WO '723 discloses a cylinder of height 3-6 mm, density 0.07-0.5 g/cm³ and pore size of 100-400 um (Table I page 26). 1-25% glycosaminoglycan is disclosed (page 17 line 27).

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No claims allowed.

The PTO form 1449 accompanying the IDS filed 4/10/02 was not considered because the foreign patent documents and non-patent literature cited thereon are not of record.

Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.

EDWARD J. WEBMAN
PATENT EXAMINER
GROUP 1500